

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TIMOTHY J. HEINZ,)	CASE NO. 5:24-MC-40
)	
Plaintiff,)	JUDGE CHARLES E. FLEMING
)	
vs.)	
)	MEMORANDUM OPINION AND
STATE OF OHIO, <i>et al.</i> ,)	ORDER
)	
Defendants.)	
)	
)	

Before the Court is Plaintiff Timothy J. Heinz’s *pro se* “Motion Pursuant to Court Order Seeking Leave to File.” (ECF No. 1.) For the following reasons, the Motion is **DENIED**, and this action is **DISMISSED**.

Plaintiff has already filed numerous prior lawsuits in this and other courts against the same Defendants and others challenging a foreclosure action brought against him in state court. Due to Plaintiff’s repeated filing of frivolous lawsuits pertaining to the foreclosure, on August 15, 2024, Judge Adams issued an order in *Heinz v. State of Ohio, et al.*, No. 5:24 CV 00757 (N.D. Ohio Aug. 15, 2024), declaring Plaintiff a vexatious litigator and permanently enjoining him from filing anything with this Court without first obtaining leave in accordance with a specified procedure. Specifically, the order provides:

1. He must file a “Motion Pursuant to Court Order Seeking Leave to File” with any document he proposes to file, and he must attach a copy of this Order to it (any such Motion should be filed in a miscellaneous case).
2. As an exhibit to any Motion seeking such leave, he must also attached a declaration which has been prepared pursuant to 28 U.S.C. § 1746 or a sworn affidavit certifying that (1) the document raises a new issue which has never been previously raised by him in this or any other court, (2) the claim or issue is not frivolous, and (3) the document is not filed in bad faith.

3. By means of a second exhibit, he must identify and list: (1) the full caption of each and every suit which has been previously filed by him or on his behalf in any court against each and every Defendant in any new suit he wishes to file, and (2) the full caption of each and every suit which he has currently pending.
4. As a third exhibit to the Motion, he must provide a copy of each complaint identified and listed in accordance with the foregoing Paragraph 3 and a certified record of its disposition.

Id. at 7–8.

Further, even if these criteria are met, the order provides that any motion Plaintiff files seeking leave may be denied if the Court determines that the new action Plaintiff seeks to file is “frivolous, vexatious, or harassing.” *Id.* at 8.

The Court finds that Plaintiff’s motion must be denied for multiple reasons. As an initial matter, Plaintiff has not paid the filing fee associated with a miscellaneous case or filed a motion to proceed *in forma pauperis*. Further, his motion does not meet the criteria stated in Judge Adams’s order. Like prior pleadings he has filed in federal court, Plaintiff’s present motion is largely incomprehensible and difficult to decipher. He has not provided a specific, identifiable “document” or pleading he seeks to file. It appears Plaintiff seeks to raise “New Claims” he purportedly sets out on “pages (30) forward” of his motion. (ECF No. 1, PageID #34).

Even if the Court construes “pages (30) forward” of his motion as the document Plaintiff seeks to file, the document is frivolous, vexatious, and harassing. The so-called new claims Plaintiff seeks to raise appear to pertain to and seek to challenge the propriety of the same state foreclosure he has repeatedly challenged in state and federal court. (*Id.* at PageID #30–33). Plaintiff seeks to assert such claims against the same Defendants he already sued in the case before Judge Adams, which Judge Adams found frivolous and dismissed on the basis of the *Rooker-Feldman* doctrine and *res judicata*. See *Heinz*, No. 5:24 CV 00757.

Nothing in Plaintiff's motion and subsequent "Addendum" (ECF No. 2) suggests he seeks to assert any non-frivolous new claim. Rather, it is apparent that Plaintiff, once again, is seeking to bring another action in federal court challenging the state foreclosure. This is barred for the same reasons Judge Adams (and other courts) have dismissed prior actions he filed. The new action Plaintiff seeks leave to file is frivolous, vexatious, and harassing.

Conclusion

Accordingly, Plaintiff's "Motion Pursuant to Court Order Seeking Leave to File" (ECF No. 1) in this miscellaneous matter is **DENIED**, and this action is **DISMISSED**. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Date: September 27, 2024



CHARLES E. FLEMING
UNITED STATES DISTRICT JUDGE